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TAGS: ECON EFIN EINT EINV PGOV CA
SUBJECT: Canada Takes First Step Toward National Securities Regulator

Ref: 07 Toronto 160

Sensitive But Unclassified -- protect accordingly.

This is a joint Embassy Ottawa-ConGen Toronto message.

¶1. (SBU) Summary: Canada has taken the first step toward the creation of a national securities regulator with the creation of the Canadian Securities Transition Office (CSTC). The CSTC will lead the effort to establish a national regulator (e.g., addressing provincial concerns) and help the federal government develop appropriate legislation. The Ontario Securities Commission (OSC) - which oversees Canada's largest securities market - supports the creation of a national securities regulator, while the provinces of Alberta, Quebec, and Manitoba are currently opposed. The CSTC and the federal government will need to overcome this provincial opposition before a single national securities regulator can be created. End Summary.

Transition Office

¶2. (SBU) Canada took the first step towards implementing a national securities regulator on June 22 when federal Finance Minister Jim Flaherty launched the Canadian Securities Transition Office. Canada is the only G-7 country without a national regulator. The Office will act as intermediary between Canada's federal government and the thirteen provincial and territorial securities regulators, and help develop national securities legislation.

Transition Leadership

¶3. (SBU) The transition team will be led by Doug Hyndman, current chair of the British Columbia Securities Commission (BCSC), and Ontario's Bryan Davies, who will be vice-chair. British Columbia and a number of other provinces had been opposed to a national regulator over fears that a single regulatory body would be dominated by Ontario, home to Canada's largest stock exchange and the third largest in North America -- the Toronto Stock Exchange (TSX) (reftel). Hyndman attributes British Columbia's newfound support to the influence of a "core group of provinces" that chose to move in the direction of a single regulator. Hyndman is well-respected by his peers, considered credible, and will likely strive to protect his region's interests.

Ontario's Support

¶4. (SBU) An Ontario Securities Commission (OSC) official told ConGen Toronto that the OSC was pleased with Minister Flaherty's move toward a national securities regulator, which the OSC has long supported. (In the GOC's 2009 budget, Flaherty had allocated C$154 million to set up a national regulator by 2010.) Though the OSC is one of Canada's strongest supporters of a single regulator, our contact stated that the OSC is not leading the Transition Office because it wants to avoid criticism that the Office is too Ontario-centric. However, the OSC will participate in a yet-to-be announced advisory council and transition team. While the site of a possible national regulator is up for negotiation - perhaps in exchange for buy-in from several reluctant regional regulators - it almost certainly will have a significant presence in Toronto.

Provincial Consequences and Opposition

¶5. (SBU) Although regional securities regulators have largely harmonized their rules, there are redundant fees, costs, and paperwork arising from Canada's thirteen provincial and territorial securities regulators. Provincial participation in the new transitional arrangement will be voluntary, and it is unclear whether provinces choosing to join a national regulatory program will have to repeal their own provincial securities legislation. (Note: In Canada, property and civil rights fall under provincial jurisdiction, while trade and commerce fall under federal jurisdiction; some powers overlap.) The C$154 million earmarked to set up the national body would likely be used to compensate smaller jurisdictions for lost revenues generated from market and settlement

fees, according to our OSC contact. (The governments of Ontario, Quebec, Alberta, and British Columbia do not earn revenues from their provinces' securities regulators.)

¶6. (U) Both Alberta and Quebec oppose a single national regulator, and have threatened to take the issue to court. Alberta Premier Ed Stelmach objects because a national regulator would not - according to Stelmach - understand the operations of companies involved in high-risk petroleum exploration projects - a mainstay of his province's economy. Quebec Premier Jean Charest has said that he opposes a single regulator because securities regulation is a provincial responsibility under the Canadian Constitution.

Hockin Report

¶7. (SBU) The Harper Government is basing its support for a single regulator on a recent report on securities regulation prepared by a panel of Canada's business leaders (the "Hockin Report"). The report states that a single securities regulator would:

-- improve accountability between regulators and governments;
-- create consistent securities regulation and enforcement across Canada;
-- reduce the compliance frustrations and costs of small and medium-sized firms seeking to expand beyond their home province;
-- overcome perceptions among foreign would-be investors of a fragmented Canadian regulatory system;
-- enhance Canada's attractiveness as a destination for both domestic and foreign investment; and
-- enable Canada to speak with one voice at the International Organization of Securities Commissions and other international forums.

¶8. (SBU) Comment: From a U.S. perspective, a single Canadian regulator would make it easier for American investors to do business in Canada, provide a single point of contact for U.S. securities regulators, and make Canada a more effective ally at international financial forums. Moreover, the prospect of improved securities regulation in Canada could help improve the overall health of the international financial system. The Hockin Report also highlighted

concerns about laxity in Canadian securities enforcement. Interested parties consulted by the Hockin panel indicated that U.S. law enforcement bodies appear to have greater success in prosecuting Canadians who commit capital markets crime than Canadian authorities. One manager of a large Canadian pension fund stated that his fund has a policy of purchasing Canadian stock on U.S. stock exchanges in order to have the benefit of U.S. enforcement and redress.

¶9. (SBU) Comment (cont.): In the mid-1990s, Canada tried, but failed to establish a national regulator. A major roadblock at the time was that the OSC was not self-funded (since changed), and Ontario insisted on being compensated millions of dollars to transfer its securities oversight to the federal government. Now, Ontario supports the GOC's efforts with an expectation that it will emerge as the dominant player in any single securities regulator. While there is non-partisan support at the federal level for a national regulator, its success depends largely on convincing Alberta, Manitoba, and Quebec to support a single regulator. It remains to be seen if the continued volatility of global financial markets and the inherent inefficiencies of a splintered oversight system will help push a national securities regulator past a group of reluctant, self-interested provincial capital markets.

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